

60130-1226  
99MRA0205

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Foster, et al.

SERIAL NO. 10/004,294

EXAMINER: Nguyen, Trinh T.

FILED: 10/24/2001

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SECOND REQUEST FOR RECONSIDERATION

In response to the Office Action of May 16, 2003, Applicant respectfully requests consideration of the following remarks in response to the Examiner's Second Final Rejection.

Applicant strongly objects to the issuance of a second final rejection because the examiner has prematurely closed prosecution without ever affording Applicant an opportunity to amend. In the first Office Action (Paper No. 4), claims 18-30 were not rejected under any cited prior art. In the action set forth in Paper No. 7, the Examiner issued new rejections based on new references and made the action final. No substantive amendments had been made to any of the claims in response to the rejections of Paper No. 4, thus there was no amendment made by Applicant that would necessitate the new ground of rejection issued by the Examiner in the first final rejection (Paper No. 7).

The Examiner admitted that Paper No. 7 should not have been a final action, however, the Examiner immediately issued a new final action (Paper No. 10). Thus, as Applicant has been under final since Paper No. 7, Applicant has *never* been afforded an opportunity to amend in response to the Examiner's rejections set forth in Paper No. 4.